

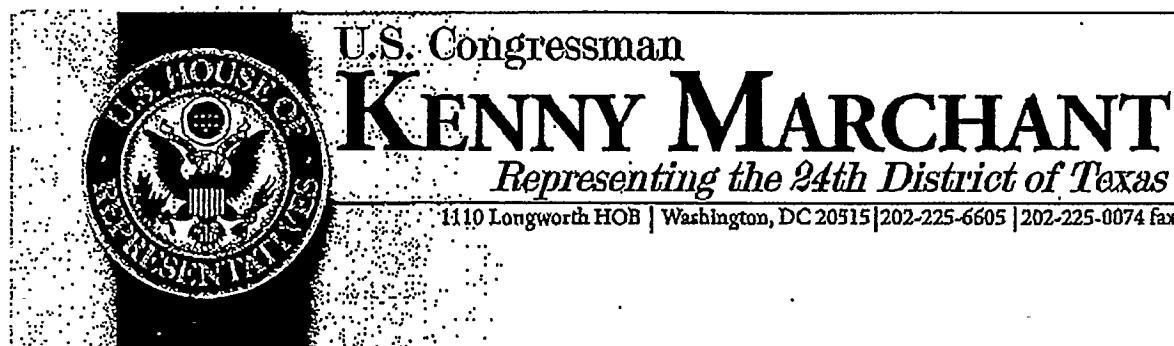
FEDERAL BUREAU OF INVESTIGATION
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Fax Cover Sheet

Date: July-17-13

To: DOJ Leg Affairs

CC: _____

Fax: 202. 514. 4482

Subject: _____

Pages: 3 (including cover sheet)

From: _____

Kenny Marchant, U.S. Representative (TX-24)
 Brian Thomas, Chief of Staff
 Scott Cunningham, Legislative Director
 James Williams, Senior Policy Adviser
 John Deoudes, Legislative Assistant
 Robert Vega, Legislative Correspondent
 Shane McDonald, Staff Assistant
 Other: _____

Comments: _____

The Honorable Charles E. Grassley
Page 2

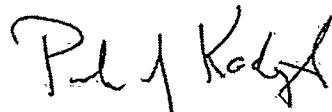
Operational Approval Guidance, UAS Policy 05-01, "Unmanned Aircraft Systems: Operations in the U.S. National Airspace System" (2008).

In addition, every request to use UAVs for surveillance is reviewed by FBI legal counsel to ensure there are not potential Fourth Amendment or privacy concerns implicated by the proposed use of UAVs. Every request to use UAVs for surveillance must be approved by senior FBI management at FBI Headquarters and in the relevant FBI Field Office. Without a warrant, the FBI will not use UAVs to acquire information in which individuals have a reasonable expectation of privacy under the Fourth Amendment. To date, there has been no need for the FBI to seek a search warrant or judicial order in any of the few cases where UAVs have been used.

While we share your interest in transparency concerning the use of law enforcement and national security tools, we are not in a position to disclose publicly more detailed information concerning the Bureau's specific use of UAVs. Such additional information is "Law Enforcement Sensitive" or, in some cases, classified, based on the need to protect the effectiveness of this capability in law enforcement and national security matters. We have enclosed a classified addendum that provides more detailed information in response to your inquiry. We request that you not disseminate the information in the addendum without prior consultation with the FBI. In addition, as you may know, FBI representatives participated in a classified briefing for staff of the Senate Judiciary Committee on July 12, 2013, which members of your staff attended.

We appreciate your interest in this issue and hope that this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,



Peter J. Kadzik
Principal Deputy Assistant Attorney General

Enclosure

cc: The Honorable Patrick J. Leahy
Chairman

and comply with the FAA's guidelines on the use of UAVs in the national airspace (this includes significant limits on the area and altitude where UAVs can be operated). *See FAA Interim Operational Approval Guidance, UAS Policy 05-01, "Unmanned Aircraft Systems: Operations in the U.S. National Airspace System" (2008).*

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ATF has an approved Certificate of Authorization or Waiver (COA) from the FAA to conduct training and recently completed a one year research and development (R&D) project on rotary wing Unmanned Aircraft Systems. ATF's inventory currently consists of six unmanned aircraft and the technology will be utilized by ATF for operational reconnaissance/surveillance and crime scene video evidence collection. There are no plans to use the UASs for offensive capabilities, including adding weapons to the vehicles. ATF has Standard Operational Procedures for UASs, and the agency is currently amending its official aviation policy to reflect the inclusion of UAS operations. These policies will ensure that ATF operations comply with all constitutional and statutory requirements and DOJ guidelines while protecting citizens' privacy and civil liberties. ATF policy will prohibit its UAS inventory from being loaned to any local, state or federal law enforcement agency or to being used by ATF in furtherance of other agencies' investigations.

Finally, although DEA acquired UASs from surplus provided by another agency, DEA is not using any of the units and does not have a plan to do so. Further, DEA does not have a UAS program and, due to budget constraints, will not deploy the UASs it has. Instead, DEA is working to transfer the units to an agency outside of the Department of Justice.



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

July 26, 2013

The Honorable Paul C. Broun
Chairman
Committee on Science, Space, and Technology
Subcommittee on Investigations and Oversight
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This responds to your letter to the Attorney General, dated June 28, 2013, seeking information concerning the use by Department components of Unmanned Aerial Vehicles (UAVs) or Unmanned Aircraft Systems (UASs) for surveillance purposes. We are sending identical responses to the other Members who joined in your letter.

The FBI uses UAVs in very limited circumstances to conduct surveillance when there is a specific, operational need. UAVs have been used for surveillance to support missions related to kidnappings, search and rescue operations, drug interdictions, and fugitive investigations. Since late 2006, the FBI has conducted surveillance using UAVs in eight criminal cases and two national security cases.¹ For example, earlier this year in Alabama, the FBI used UAV surveillance to support the successful rescue of the 5-year-old child who was being held hostage in an underground bunker by Jimmy Lee Dykes. None of the UAVs used by the FBI are armed with either lethal or non-lethal weapons, and the FBI has no plans to use weapons with UAVs. The FBI does not use UAVs to conduct "bulk" surveillance or to conduct general surveillance not related to an investigation or assessment.

The FBI only conducts UAV surveillance consistent with its rules and regulations for conducting aerial surveillance in investigations, as well as specific rules and regulations applicable to the use of UAVs for surveillance. Specifically, the FBI's use of UAVs for surveillance is governed by laws and policies including the Fourth Amendment of the United States Constitution, the Privacy Act, Federal Aviation Administration (FAA) rules and regulations, the Attorney General Guidelines for Domestic FBI Operations, the FBI's Domestic Investigations and Operations Guide, and the FBI's 2011 Bureau Aviation Regulations Manual, which has specific policies for the use of UAVs for aerial surveillance. For example, the FBI must obtain a Certificate of Authorization from the FAA prior to using UAVs for surveillance,

¹ The FBI authorized UAVs for surveillance in three other criminal cases, but they were not actually used.